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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/081,041   | 02/14/2002  | Vincent Rosa         | Rosa POP 22         | 8523             |
| 23974  | 7590        | 05/08/2003           | EXAMINER            |                  |
| NOLTE NOLTE & HUNTER<br>CHRISTOPHER B GARVEY<br>1077 NORTHERN BLVD<br>ROSLYN, NY 11701 |             |                      | HARRIS, ANTON B     |                  |
|  |             | ART UNIT             | PAPER NUMBER        |                  |
|  |             | 2831                 |                     |                  |

DATE MAILED: 05/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                            |                  |
|------------------------------|----------------------------|------------------|
| <b>Office Action Summary</b> | Application No.            | Applicant(s)     |
|                              | 10/081,041                 | ROSA ET AL.      |
|                              | Examiner<br>Anton B Harris | Art Unit<br>2831 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
  - 2a) This action is FINAL.                    2b) This action is non-final.
  - 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.
- Disposition of Claims**
- 4) Claim(s) 1-15 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
  - 5) Claim(s) \_\_\_\_\_ is/are allowed.
  - 6) Claim(s) 1-6 and 10-13 is/are rejected.
  - 7) Claim(s) 7-9, 14 and 15 is/are objected to.
  - 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ .                                   |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Fredrickson (4,606,466).

Regarding claim 1, Fredrickson (col. 4, line 39-col. 6, line 40) discloses a display system 10 including:

a back 12; a plurality of hook sockets 20 on the back 12; a plurality of plug-in display hooks 14, each hook 14 mountable to any socket 20 of the plurality, the hooks 14 spaced as the product widths require, among the sockets 20, each the hook 14 having a front end 31 distal from the sockets 20;

a header socket 20;

a header module (unit including reference numbers 50, 53, 60) having a display window (figure 1 between reference numbers 60) and extending frontward.

Regarding claim 2, Fredrickson (figure 3) discloses a pair of the plugs 32, which fit into a pair of the header sockets 20.

Regarding claim 5, Fredrickson (figure 3) discloses that each hook 14 is attached onto a hook snap 32.

Regarding claim 6, Fredrickson (col. 5, lines 30-31) discloses that the hook snap 32 has a ball (see the shape of part 32), and said ball snaps into one of the hook sockets 20 See (figure 3).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 3, 4, and 10-12, are rejected under 35 U.S.C. 103(a) as being unpatentable over Fredrickson (4,606,466) in view of Adams et al. (5,662,375).

Regarding claim 3, Fredrickson discloses the invention substantially as claimed, but lacks snap tabs on the plugs being spring biased; the snap tabs each have a pin; the header sockets each have slots; the pins spring up into slots, which receive the pins and lock the header module in place on the back.

Adams et al. (abstract) teaches that snap tabs 30, 32 on the plugs 12 being spring biased; the snap tabs 30, 32 each have a pin 44, 46; the header sockets each have slots 22, 24; the pins 44, 46 spring up into slots 22, 24, which receive the pins 44, 46 and lock the header module in place on the back 20.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Fredrickson by providing snap tabs on the plugs that are spring biased; the snap tabs each having a pin; the header sockets each having slots; the pins springing up into the slots, which receive the pins and lock the header module in place on the back in order to prevent the inadvertent removal of the mounting clips in view of the teachings of Adams et al.

Regarding claims 4 and 11, Fredrickson discloses a header module but does not disclose a secondary header module.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a secondary header module, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 10, Fredrickson (col. 4, line 39-col. 6, line 40) discloses a display system 10 including:

a back 12 having a header socket 20;  
a header module (unit including reference numbers 50, 53, 60) having a display window (figure 1 between reference numbers 60) and extending frontward to the display plane;

a pair of the plugs 32, which fit into a pair of the header sockets 20, but lacks snap tabs on the plugs being spring biased to snap into the header sockets, the snap tabs each having a pin, the header sockets each have slots, the pins springing up into slots, which receive the pins and lock the header module in place on the back.

Adams et al. (abstract) teaches that snap tabs 30, 32 on the plugs 12 being spring biased; the snap tabs 30, 32 each have a pin 44, 46; the header sockets each have slots 22, 24; the pins 44, 46 spring up into slots 22, 24, which receive the pins 44, 46 and lock the header module in place on the back 20.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Fredrickson by providing snap tabs on the plugs that are spring biased; the snap tabs each having a pin; the header sockets each having slots; the pins springing up into the slots, which receive the pins and lock the header module in place on the back in order to prevent the inadvertent removal of the mounting clips in view of the teachings of Adams et al.

Furthermore, claim 10 recites a use for a claimed structural limitation. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

In addition, claim 10 recites the phrase “adapted to”. Claims 14 and 15 recite the phrase “can then be”. It has been held that the recitation that an element is “adapted to” or “can be” performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138.

Regarding claim 12, Fredrickson (figure 1) discloses that the back 12 has means 40 for mounting over a conventional display board.

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fredrickson modified as taught by Adams et al as applied to claim 12 above, and further in view of Malin (6,003,685).

Regarding claim 13, Fredrickson modified by Adams et al. discloses the invention substantially as claimed, but lacks a peg board.

Malin (abstract) teaches a peg board 15.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Fredrickson modified as taught by Adams et al by providing a peg board in order to display merchandise in view of the teachings of Malin.

#### *Allowable Subject Matter*

6. Claims 7-9, 14 and 15 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The primary reason for the indication of the allowability of claims 7-9 is the inclusion therein, in combination as currently claimed, of the limitation of the socket having within a compression member, for squeezing the ball as the ball is inserted into the socket, which ball thereafter snaps open, locating the gap at the compression member. This limitation is found in claim 7-9 and is neither disclosed nor taught by the prior art of record, alone or in combination.

The primary reason for the indication of the allowability of claims 14 and 15 is the inclusion therein, in combination as currently claimed, of the limitation of on the header a bullnose clear cover has a front cover portion, the front cover portion mates to a back cover, back cover snaps behind the front cover; two cover pins protrude from the ends of the back cover, the cover pins snap into two frame holes on a frame of the header, said covers then define a location into which header information on card stock can then be slipped between the front cover and the back cover. This limitation is found in claims 14 and 15 and is neither disclosed nor taught by the prior art of record, alone or in combination.

### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hagopian U.S. Patent No. 5,588,537 discloses a merchandise display system.

Berger U.S. Patent No. 5,255,801 discloses a merchandise display including display hooks.

White U.S. Patent No. 3,760,952 discloses a display device.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anton B Harris whose telephone number is (703) 305-4764. The examiner can normally be reached on weekdays from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Dean Reichard, can be reached on (703) 308-3682. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-1341.

Art Unit: 2831

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

abh

4/29/03

*Dean A. Reichard* 5/5/03  
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